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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/532,755

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Craig A. Finseth

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THE DIRECTV GROUP, INC.  
PATENT DOCKET ADMINISTRATION  
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EXAMINER

SHELEHEDA, JAMES R

ART UNIT

PAPER NUMBER

2623

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/532,755		FINSETH ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	James Sheleheda		2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 11-14, 16-19, 26-43, 45, 46, 49-52 and 59-64 is/are pending in the application.
- 4a) Of the above claim(s) 26-43, 45, 49-52 and 59-64 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-14 and 16-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 11-14 and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond et al. (Zigmond) (6,698,020) (of record) in view of Knee et al. (Knee) (US 2002/0095676 A1) (of record) and Maissel et al. (Maissel) (WO 99/10984 A1).

As to claim 14, Zigmond discloses a method for broadcasting and displaying advertisements (column 4, lines 8-15), comprising:

receiving program guide data (column 10, line 64-column 11, line 13) and advertising data (column 12, lines 15-32), wherein the program guide data includes program attribute information identifying content of each of a plurality of television programs (column 10, line 64-column 11, line 13 and column 12, line 60-column 13, line 13) and wherein the advertising data includes a plurality of advertisements (column 12, lines 15-32 and column 17, lines 10-20) and advertisement attribute information identifying content of each of the plurality of advertisements (advertisement parameters; column 12, lines 15-32 and column 11, lines 35-48);

maintaining a selection history comprising a user viewing profile that includes program attribute information identifying content of television programs selected by a user (stored viewing history; column 11, lines 13-30).

While Zigmond discloses performing, for each of the plurality of advertisements (column 17, lines 10-20), a comparison between the advertisement attribute information and the program attribute information of the user viewing profile (column 11, lines 17-49 and column 17, lines 10-20);

discarding advertisements having a value less than or equal to a predetermined threshold value (discarding ads determined to not match the viewer; column 15, lines 17-23 and column 17, lines 10-20); and

displaying a set of advertisements from the plurality of advertisements based on the value (displaying ads which are determined to match the viewer's program history; column 11, lines 31-65 and column 17, lines 21-32), he fails to specifically disclose calculating a similarity score for each of the advertisements, discarding advertisements having a similarity score less than or equal to the threshold and displaying the advertisements based upon the similarity scores and filtering the selection history to exclude program attribute information associated with television programs viewed by the user for a predetermined time period.

In an analogous art, Knee discloses a method for selecting advertisements (paragraph 10; Fig. 5) which compares a users selection history (paragraph 35, 36 and 50) and advertisement attribute information (ad values; paragraphs 46, 47 and 50) to calculate a similarity score for the advertisement (calculating a "closeness" score to

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identify which ads of a plurality most closely match the viewer; paragraph 47) and displaying the advertisements based upon the similarity score (displaying the "best match" ads; paragraph 47 and 50), wherein advertisements having a similarity score less than or equal to a threshold are discarded (wherein the advertiser determines minimum values which must be met to display the ad; paragraph 32), for the typical benefit of providing a systematic approach to targeting ads and identifying the best to display to the user, based upon user history and ad criteria (paragraphs 7, 47 and 50).

Additionally, in an analogous art, Maissel discloses a system for profiling a viewer by monitoring a viewers selection history (page 17, line 24-page 18, line 17) which will filter a viewers selection history to exclude program attribute information associated with television programs viewed by the user for a predetermined time period (ignoring surfing information; page 26, lines 17-30) for the typical benefit of providing a more accurate profile by identifying and ignoring programming only viewed for a short period of time (page 26, line 17-30).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Zigmond's system to include calculating a similarity score for each of the advertisements, discarding advertisements having a similarity score less than or equal to the threshold and displaying the advertisements based upon the similarity scores, as taught by Knee, for the typical benefit of providing a systematic approach to targeting ads and identifying the best to display to the user, based upon user history and ad criteria.

Additionally, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Zigmond and Knee's system to include filtering the selection history to exclude program attribute information associated with television programs viewed by the user for a predetermined time period, as taught by Maissel, for the typical benefit of providing a more accurate profile by identifying and ignoring programming only viewed for a short period of time.

As to claim 16, Zigmond, Knee and Maissel disclose storing the advertising data by determining if each of the plurality of advertisements received has a similarity score greater than an advertisement from the set of advertisements (only storing and utilizing the most best matching ads; see Zigmond at column 15, lines 17-23, column 17, lines 10-20 and Knee at paragraph 47).

As to claim 17, Zigmond, Knee and Maissel disclose storing the advertising data in a memory if the memory has sufficient space to store each of the plurality of advertisement (see Zigmond at column 15, lines 17-23).

As to claim 18, Zigmond, Knee and Maissel disclose storing the advertising data beyond a lifetime associated with the advertisement when the advertisement has a similarity score greater than a predetermined threshold similarity score (wherein a previously selected ad has been recorded and is now obsolete; see Zigmond at column 14, lines 1-13).

As to claim 19, Zigmond, Knee and Maissel disclose wherein displaying the set of advertisements from the plurality of advertisements includes selecting advertisement images associated with each of the plurality of advertisements (see Zigmond at column 9, lines 9-20) based on the similarity scores for each of the plurality of advertisements (see Zigmond at column 17, lines 21-32 and Knee at paragraph 47) and displaying the selected advertisement images (see Zigmond at column 17, lines 21-32 and Knee at paragraph 47).

As to claim 11, Zigmond, Knee and Maissel disclose wherein displaying the set of advertisements from the plurality of advertisements based on the similarity score includes repeating the display of the advertisement from the set of advertisement at a frequency (see Zigmond at column 13, lines 40-47) based on the similarity score of the advertisement (determining if the ad is displayed; see Knee at paragraph 47).

As to claim 12, Zigmond, Knee and Maissel disclose wherein displaying the set of advertisements from the plurality of advertisements based on the similarity score includes prioritizing the advertisements within the set of advertisements for display based on the similarity scores of the advertisements within the set of advertisements (wherein the order of display for the ads is based upon a "best match" calculation for each ad; see Knee at paragraph 47) and displaying the advertisements within the set of advertisements in order of priority (wherein the highest priority or "best match" for each

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successive ad slot is selected and displayed; see Zigmond at column 21-49 and Knee at paragraph 47).

As to claim 13, Zigmond, Knee and Maissel disclose wherein displaying the set of advertisements from the plurality of advertisements based on the similarity score includes displaying advertisements having a similarity score greater than a predetermined threshold score (wherein advertisements which do not exceed the threshold are discard and never displayed; see Zigmond at column 17, lines 10-20 and Knee at paragraph 32).

### ***Response to Arguments***

3. Applicant's arguments with respect to claim 14 have been considered but are moot in view of the new ground(s) of rejection.

4. Applicant's arguments with respect to claim 11 have been fully considered but they are not persuasive.

Zigmond discloses wherein the selected advertisements are repeatedly displayed at a frequency (see Zigmond at column 13, lines 40-47). Furthermore, the selected advertisements are selected and displayed based upon the similarity score of the advertisement (see Knee at paragraph 47). Thus, the combination of Zigmond and Knee meet the claim limitation of repeating the display of the advertisement from the set of advertisement at a frequency based on the similarity score of the advertisement. As

advertisements are selected based upon a similarity score, and advertisements may be selected and displayed repeatedly, the frequency of display is based upon the similarity score.

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

### **Certificate of Mailing**

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I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Sheleheda whose telephone number is (571) 272-7357. The examiner can normally be reached on 9:00-5:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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